

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6950

BILL NUMBER: SB 456

NOTE PREPARED: Jan 6, 2009

BILL AMENDED:

SUBJECT: Local Enforcement of Environmental Laws.

FIRST AUTHOR: Sen. Deig

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Contracts with Local Air Pollution Agencies.* This bill requires the Department of Environmental Management (IDEM) to enter into contracts with local air pollution agencies to carry out an air pollution program for IDEM.

Counties, Cities and Towns. The bill permits a city or town to regulate the introduction of any substance or odor into the air or any generation of sound within four miles outside its corporate boundaries. The bill makes related changes. The bill extends the powers granted to Marion County to establish a local air pollution permit program to counties, cities, and towns outside Marion County. It authorizes a local permit program to comply with more restrictive local ordinances to further the expressed purposes of air pollution control laws.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Contracts with Local Air Pollution Agencies.* In 2008, IDEM announced plans to allow contracts with six local air agencies to expire and to bring IDEM-related permitting, compliance, and monitoring activities in-house. In allowing the contracts with these local units to expire, IDEM expects to reduce expenditures by over \$2 M. The local agencies were located in the following local units: Anderson, Evansville, Gary, Hammond, Indianapolis, and Vigo County.

The number and nature of contracts with IDEM that might occur under the provisions of the bill are unknown. Consequently, the fiscal impact is unknown.

In addition to contracts with local units, the bill also requires the IDEM Commissioner to advise, consult,

and cooperate with other state agencies; towns, cities, and counties; industries; other states; the federal government; and affected groups; in the prevention and control of new and existing air contamination sources within Indiana. The Commissioner would also be required to conduct certain studies; encourage voluntary cooperation; upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control; encourage authorized air pollution agencies of towns, cities, and counties to handle air pollution problems within their respective jurisdictions; and enter into contractual agreements with local air pollution control agencies. These provisions are currently “may” provisions.

IDEM must enter into a contractual agreement with a local air pollution control agency whenever the local air pollution control agency is willing to enter into the contract. The contract must require IDEM to do the following:

- (A) Advise, consult, and cooperate with the local air pollution control agency.
- (B) Provide technical assistance to the local air pollution control agency.
- (C) Authorize the local air pollution control agency to undertake air pollution control activities.
- (D) Authorize certain alternative actions.
- (E) Provide fair monetary compensation to the local air pollution control agency for the air pollution control work performed on behalf of IDEM.
- (F) Provide that the source of the monetary compensation provided to the local air pollution control agency may originate from:
 - (i) U.S. Environmental Protection Agency (EPA) federal grant funding for the purpose of air pollution control program support activities;
 - (ii) U.S. EPA federal grant funding for the purpose of PM2.5 air monitoring activities funded under Section 103 of the federal Clean Air Act.
- (G) Provide that the monetary compensation provided to the local air pollution control agency must be at least sufficient to cover the staffing and operating costs the local air pollution control agency incurred for air pollution control work performed on behalf of IDEM.
- (H) Provide that the monetary compensation provided to local air pollution control agencies must be tied to the Consumer Price Index (CPI).
- (I) Provide that if a local air pollution control agency applies for grant funding from the U.S. EPA, the Commissioner must approve and facilitate the grant funding agreement between the U.S. EPA and the local air pollution control agency.

The impact of these provisions is indeterminable at this time.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The State Personnel Department staffing report indicated that, as of December 15, 2008, IDEM had 47 vacant positions with salaries totaling \$1.7 M. Of the 47 vacant positions, 41 have been vacant for a year or less. IDEM reverted \$5.9 M to the state General Fund and \$14.4 M in all funds in FY 2008.

Explanation of State Revenues:

Explanation of Local Expenditures: *Counties, Cities, and Towns.* A county, city, or town that adopts an ordinance must designate an agency to act as an air pollution control agency to enforce ordinances and undertake air pollution control efforts on behalf of IDEM. An air pollution control agency that has entered into a contract must submit annual reports as requested by IDEM. A county, city, or town (except an excluded city in a county having a consolidated city) may establish an air permit program that complies with the federal Clean Air Act and any more restrictive ordinances adopted by the county, city, or town to further the purposes of the air pollution control laws. Marion County may exercise powers granted in areas within four miles outside its corporate boundaries.

The fiscal impact of these provisions will depend on the number and nature of contracts established with IDEM.

Explanation of Local Revenues: See *Explanation of State Expenditures* above.

State Agencies Affected: IDEM.

Local Agencies Affected: Cities, towns, and counties.

Information Sources: State Budget Agency; IDEM.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.